

## Chapter 5      Snowmobiles

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## Part I—An Overview of the Snowmobile Act

### 5.1 Introduction

\*For simplicity purposes, this statute will be referred to throughout this chapter as the Snowmobile Act, rather than Part 821 of the Natural Resources and Environmental Protection Act.

The Snowmobile Act\* is codified as Part 821 of the Natural Resources and Environmental Protection Act (NREPA). MCL 324.82101 et seq; MSA 13A.82101 et seq. It was enacted in 1995 as a replacement for the previous snowmobile statute that had been codified as Chapter 15 of the Michigan Vehicle Code. *See* MCL 324.90106; MSA 13A.90106, repealing MCL 257.1501 to .1543; MSA 9.3200(1) to (43), effective May 24, 1995. All of the provisions that had been in the Vehicle Code were renumbered and then codified as Part 821 of the NREPA. The Legislature made no substantive changes to the contents of those provisions. *See* MCL 324.107; MSA 13A.107, of the NREPA which states:

“It is the intention of the legislature that editorial changes in the language of statutes codified as parts within this act not be construed as changes to the meanings of those statutes.”

The Snowmobile Act requires all snowmobiles to have a certificate of registration and a registration decal issued by the Secretary of State. MCL 324.82103; MSA 13A.82103. In addition, persons who operate snowmobiles in Michigan must obtain snowmobile trail permit stickers, which may be obtained from the Department of Natural Resources and from licensed agents of the Department. MCL 324.82118; MSA 13A.82118.\*

\*See DNR Note at Section 5.2 for more information about Michigan’s snowmobile trails and areas.

The fees charged for registration certificates and trail permits are credited to the snowmobile trail improvement fund and the snowmobile registration fee fund. *See* MCL 324.82110 and .82111; MSA 13A.82110 and .82111. These funds, in turn, are used to pay for safety education and training programs; for constructing, maintaining, and acquiring trails and areas for snowmobiles; and for purchasing equipment and paying for personnel to enforce the Snowmobile Act. *See* MCL 324.81108 and .81109; MSA 13A.81108 and .81109.

The offenses established by the Snowmobile Act can be grouped into the following twelve categories:

- Registration requirements.
- Trail permit requirements.
- Equipment requirements.
- Operation of snowmobiles on public highways and streets.
- Operation of snowmobiles in places where snowmobiles are prohibited.

- Operation of snowmobiles by children less than 17 years of age.
- Operation of snowmobiles in a careless, unsafe or otherwise prohibited manner.
- Operation of snowmobiles to cause death or serious impairment.
- Failure to stop for peace officers.
- Failure to report accidents.
- Operation of snowmobiles while intoxicated or impaired.
- Operation of snowmobiles after driving privileges have been suspended.

Each of these categories of offences is discussed in more detail in Part B of this chapter.

## 5.2 Definitions in Snowmobile Act

- “‘Snowmobile’ means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, ...” MCL 324.82101(q); MSA 13A.82101(q).
- “‘Operate’ means to ride in or on and be in actual physical control of a snowmobile.” MCL 324.82101(h); MSA 13A.82101(h).
- “‘Highway or street’ means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.” MCL 324.82101(e); MSA 13A.82101(e).
- “‘Right-of-way’ means that portion of a highway or street less the roadway and any shoulder.” MCL 324.82101(n); MSA 13A.82101(n).
- “‘Roadway’ means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.” MCL 324.82101(o); MSA 13A.82101(o).
- “‘Shoulder’ means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.” MCL 324.82101(p); MSA 13A.82101(p).

**DNR Note:** The Michigan snowmobile trail system is comprised of over 5,900 miles of trails. This system is located within state-owned lands, the three federal forests, and private property. The sections of the trails that cross private property are developed and maintained through the granting of easements.

Unlike the provisions governing the operation of ORVs, the provisions governing the operation of snowmobiles is consistent between the Upper and Lower Peninsulas. Both peninsulas contain a significant number of trails and areas for snowmobiles. Because snowmobiles operate on top of the snow, they do not damage vegetation and young trees to the same extent that ORVs do. Consequently, snowmobiles are often permitted to operate across wider areas of land than are ORVs.

Funding for the snowmobile program is a very complex program consisting of two funding sources, with the funds being divided among the state and local units of government through a grant process. The funding sources are the fees paid to register a snowmobile and the fees derived from the sale of snowmobile trail permits.

The money for snowmobile enforcement comes from the snowmobile registration fee fund. As a result of recent legislation, \$9.00 of this fund is available for grants to counties and other local units for enforcement. The remaining \$5.00 supports the enforcement effort of the Department of Natural Resources.

Lands administered by the DNR fall into the following classifications:

- State forests are located primarily in the northern half of the Lower Peninsula and the Upper Peninsula. These properties are not distinguished by boundary signing; may be in very large blocks or in small, dispersed parcels; and may contain private holdings within the state forest. State forest lands are administered by the Forest Management Division of DNR.
- State parks and recreation areas are located throughout the state. With the exception of some recreation areas, these lands are generally contiguous properties; signed on their boundaries; more intensively managed; and apply more restrictions to snowmobile use. These lands are administered by the Parks and Recreation Bureau of DNR.
- State game areas are primarily located in the southern portion of the Lower Peninsula. These lands may be very large parcels or small mini-game areas; may or may not be signed on their boundaries depending on management goals; and apply snowmobile restrictions similar to those found in parks and recreation areas. These lands are administered by the Wildlife Bureau of DNR.
- Public access sites, often referred to as public boat launches, are located throughout Michigan. The majority of public access sites are small, discrete parcels; signed on their boundaries; and generally snowmobile use is only permitted on access roads and in parking areas. These lands are administered by the Parks and Recreation Bureau of DNR.

## 5.3 Authority of District Court Magistrates Under the Snowmobile Act

### A. Misdemeanors Up to 90 Days

MCL 600.8511(c); MSA 27A.8511(c), of the Revised Judicature Act provides that district court magistrates, when authorized by the chief judge, have the jurisdiction and duties to arraign and sentence upon pleas of guilty or nolo contendere for misdemeanor violations of the Snowmobile Act, when the maximum penalty does not exceed 93 days in jail.

However, beginning on October 1, 1999, this jurisdiction does not include authority to take pleas or sentence defendants convicted of a violation of MCL 324.82128 and 82129; MSA 13A.82128 and 82129, or a substantially corresponding local ordinance. For these snowmobile drunk driving offenses,\* the magistrate has limited jurisdiction to arraign the defendant and set bail. MCL 600.8511(c); MSA 27A.8511(c).

\*See section 5.19 for a summary of these offenses.

### B. State Civil Infractions

MCL 600.8512(1); MSA 27A.8512(1), states that:

“a district court magistrate may hear and preside over... civil infraction actions pursuant to... section 8819 [of the Revised Juricature Act]. In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized [by statute].”

Section .8819, in turn, describes the procedures to follow at informal hearings in state civil infraction actions. MCL 600.8819(1); MSA 27A.8819(1) provides as follows:

“(1) an informal hearing shall be conducted by a district court magistrate, if authorized by the judge or judges of the district court ... or a municipal court. A district court magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.”

## 5.4 Authority of DNR Conservation Officers Under the Snowmobile Act

DNR conservation officers are vested with all the powers and duties conferred upon peace officers. *See* MCL 324.1501 and .1502; MSA 13A.1501 and .1502, which state as follows:

“Conservation officers appointed by the director of the department of natural resources and trained and certified pursuant to the Michigan law enforcement officers training council act of 1965, Act. No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws, are peace officers, and except as otherwise provided by law, are vested with all the powers, privileges, prerogatives, and immunities conferred upon peace officers by the general laws of this state.”

“Except as otherwise provided by law, conservation officers appointed by the director of the department of natural resources have the same power to serve criminal process and to require aid in executing criminal process as sheriffs, and are entitled to the same fees as sheriffs in performing those duties.”

In addition, MCL 324.82134(1); MSA 13A.82134(1) of the Snowmobile Act provides that police officers and peace officers may issue appearance tickets for both misdemeanors and civil infractions in the Snowmobile Act.

**DNR Note:** Unlike their limited arrest authority under the ORV Act, state park and recreation officers are not authorized to enforce the Snowmobile Act. Historically, snowmobile use has not posed a problem in Michigan’s state parks and recreation areas and hence, the DNR did not seek such authority from the Legislature.

In the future, it is likely that the state forest officer will have a limited involvement in enforcement of the Snowmobile Act. As with ORVs, this authority will only exist on state forest lands. *See* DNR Note to section 4.4 for more information about enforcement powers of state park and recreation officers and state forest officers.

## 5.5 Enforcement of the Snowmobile Act on Federal Property

The Snowmobile Act is enforced in the three national forests in Michigan. This includes titling, licensing, and equipment requirements, and most operating restrictions. However, unlike the ORV Act, the Snowmobile Act does not contain an offense for operating a snowmobile “contrary to operating restrictions on public lands.” *See* MCL 324.81133(r); MSA 13A.81133(r) of the ORV Act. Therefore, Michigan conservation officers do not have authority to issue citations to persons for operating snowmobiles on areas of federal land that are closed to snowmobile

operation. However, these persons would probably be in violation of federal land use regulations, and would therefore be subject to arrest and prosecution by federal officers.

## 5.6 Enforcement of the Snowmobile Act on Private Property

All of the offenses within the Snowmobile Act apply to snowmobiles operated on both private property and public property. The only four exceptions are as follows:

- Certificates of registration are not required for snowmobiles operated exclusively on lands owned or under the control of the snowmobile owner. See Section 5.9, *infra*.
- Snowmobile trail permit stickers are not required for snowmobiles operated solely on private property. See Section 5.10, *infra*.
- Crash helmets are not required if a person is riding or operating a snowmobile on his or her own private property. See Section 5.11, *infra*.
- Children under 17 years of age may operate a snowmobile without a safety certificate if they are on property owned or under the control of their parents or guardians. See Section 5.14, *infra*.

**DNR Note:** The Law Enforcement Division believes that the primary responsibility of Michigan's conservation officers in the area of snowmobile enforcement is the protection of the natural resources and the safe-guarding of the health and safety of individuals utilizing public lands for recreation. General enforcement of the Snowmobile Act is focused on public lands. Conservation officers do enforce the Snowmobile Act on private property when it is necessary to protect the safety and welfare of an individual in imminent danger, i.e., where a child is involved or there is a reasonable suspicion the operator is under the influence, or where damage is being done to public natural resources, i.e., damage to streams or regulated wetlands.

Conservation officers also respond to private property cases of reported trespass. Although there is no prohibition in the Snowmobile Act against operating snowmobiles on the private property of others, such conduct would be in violation of the Recreational Trespass Act (Part 731 of NREPA). See DNR note to section 5.13 for more information about the Recreational Trespass Act.

## 5.7 Rule Making Authority of DNR

The Department of Natural Resources is authorized to promulgate administrative rules to implement the state aid for snowmobile safety programs. MCL 324.82107(6); MSA 13A.82107(6). These rules are R 257.1501 through R 257.1511 of the Michigan Administrative Code.

The Department is also authorized to promulgate rules to implement the state aid for recreational and snowmobile trails system. MCL 324.82109; MSA 13A.82109. These rules are R257.1521 through R 257.1533 of the Michigan Administrative Code.

The Snowmobile Act allows the Department to cooperate with local units of government in promulgating administrative rules to govern the conduct of snowmobiles on the frozen surface of a public body of water in cases where special circumstances exist that may not be adequately addressed by the Act. MCL 324.82125; MSA 13A.82125.

The Department is authorized to promulgate rules to protect the lands under its control from wrongful use or occupancy. This authority is contained in MCL 324.504; MSA 13A.504, which states:

“The department shall promulgate rules for the protection of the lands and property under its control against wrongful use or occupancy as will ensure the carrying out of the intent of this part to protect the lands and property from depredations and to preserve occupancy. This section does not allow the department to promulgate a rule that applies to commercial fishing except as otherwise provided by law. The department shall issue orders necessary to implement rules promulgated under this section. These orders shall be effective upon posting. *A person who violates a rule promulgated under this section or an order issued under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.*” (Emphasis added).\*

\*By comparison, a violation of an administrative rule enacted pursuant to the Marine Safety Act is a misdemeanor. See MCL 324.80171; MSA 13A.80171.

**DNR Note:** All administrative rules are compiled by rule number in the “Michigan Administrative Code, 1979,” the “Annual Administrative Code Supplements,” and the “Michigan Register” that is issued monthly. These volumes should be available in most county law libraries. In addition, they may be accessed on the World Wide Web at: [www.state.mi.us/execoff/admincode/depart.htm](http://www.state.mi.us/execoff/admincode/depart.htm).

In addition, administrative rules administered by the DNR may be found through the Department’s web site. Start at [www.dnr.state.mi.us](http://www.dnr.state.mi.us). Then click on “Divisions,” then “Law,” and then on “DNR Laws, Rules, and Regulations.”

Land Use Orders of the Director (Orders) are issued under the authority of section 504 of the NREPA. Orders are generally more location specific than rules, although some are statewide in scope. In order for an Order to be enforceable, the conduct prohibited by the Order must be posted. These Orders have been compiled, and the text of these Orders may be found through the Department’s web site as directed above.



## 5.8 Penalty Provisions in the Snowmobile Act

The general rule, except as otherwise provided, is that a person who violates the Snowmobile Act is guilty of a misdemeanor. MCL 324.82133(1); MSA 13A.82133(1). The misdemeanor shall be punishable by up to 90 days in jail and/or a fine of not more than \$100. *See* MCL 750.504; MSA 28.772 (punishment of misdemeanors when not fixed by statute).

The only two state civil infractions in the Snowmobile Act are as follows: \*

- Failure to obtain a snowmobile trail permit sticker. *See* Section 5.10, *infra*.
- Operation of a snowmobile in a careless or negligent manner likely to endanger persons or property. *See* Section 5.15(B), *infra*.

\*By comparison, the ORV Act has 17 violations that are classified as state civil infractions. *See* Section 4.8 for a summary of the penalty provisions in the ORV Act.

## Part B—Traffic Offenses in the Snowmobile Act

### 5.9 Registration Requirements

A snowmobile shall not be operated in Michigan unless the owner first obtains a certificate of registration and a registration decal from the Secretary of State. MCL 324.82103(1); MSA 13A.82103(1). The fee for a snowmobile certificate of registration and decal is \$22 for a three year period that begins on October 1 and expires September 30 of the third year. MCL 324.82105(1); MSA 13A.82105(1).

The registration decal shall be affixed to each side of the forward half of the cowl above the footwell of the snowmobile. MCL 324.82113(1); MSA 13A.82113(1).

A person who is convicted of a violation of the snowmobile registration requirements shall be fined not more than \$50. MCL 324.82103(2); MSA 13A.82103(2).

**DNR Note:** The penalty provision of the registration statute uses the term “convicted,” but fails to specify whether the fine is a civil fine or a criminal fine. As a result, the DNR has concluded that a violation of this statute is a criminal offense, rather than a civil infraction. By comparison, the penalty provision for the snowmobile trail permit statute specifically states that a violation of that statute is a state civil infraction. *See* Section 5.10, *infra*.

A certificate of registration or a registration decal is not required for a snowmobile operated exclusively on land owned or under the control of the snowmobile owner; or for a snowmobile used entirely in a safety education and training program conducted by a certified snowmobile safety instructor. MCL 324.82103(1); MSA 13A.82103(1).

Also, a certificate of registration is not required for a snowmobile that is exclusively operated in a special event that is conducted under a permit from the governmental unit having jurisdiction. MCL 324.82104; MSA 13A.82104.

If the owner of a snowmobile sells the snowmobile to another person, the new owner must apply to the Secretary of State for a new certificate of registration. MCL 324.82114(3); MSA 13A.82114(3).

**DNR Note:** A snowmobile may be operated in Michigan by a nonresident if the snowmobile has been properly registered in the person's home state. In the administration of the snowmobile program, the Department has construed the language in section .82103(1) as allowing this. That section reads, in part: "(1) Except as otherwise provided, a snowmobile shall not be operated unless the owner first obtains a certificate of registration and a registration decal." This interpretation is reinforced by the language regarding the requirement for a snowmobile trail permit sticker contained in section .82118. That section reads, in part, that: "(1) In addition to registration of a snowmobile pursuant to section 82105 or registration in another state or province, ...". (emphasis added)

If a nonresident does not, or can not, register their snowmobile in their home state, they may register it in Michigan. However, other than while operating under the exceptions specified in sections 82103 and 82104 above, a snowmobile must be properly registered somewhere.

## 5.10 Trail Permit Requirements

In addition to the registration requirements, a person who operates a snowmobile in Michigan must purchase a snowmobile trail permit sticker. MCL 324.82118(1); MSA 13A.82118(1). The fee for a trail permit sticker is \$10, and the sticker is valid for a one year period that begins on October 1, and ends on September 30 of the following year. *Id.* It may be purchased from the DNR or a licensed agent of the DNR. MCL 324.82118(3); MSA 13A.82118(3).

The snowmobile trail permit sticker must be affixed to the the forward half of the snowmobile directly above or below the headlight. MCL 324.82118(2); MSA 13A.82118(2).

A person who fails to secure a snowmobile trail permit, or who fails to affix the permit sticker to his or her snowmobile, shall be responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$50. MCL 324.82118(9); MSA 13A.8118(9).

A person who is not required to obtain a certificate of registration is also not required to obtain a trail permit sticker. *See* MCL 324.82118(1); MSA 13A.82118(1).<sup>\*</sup> This includes snowmobiles used exclusively on private land and snowmobiles used entirely in safety education and training programs.

<sup>\*</sup>See Section 5.9 for certificate of registration requirements.

Also, a snowmobile trail permit sticker is not required for a snowmobile used solely for transportation on frozen surfaces of public waters for the purpose of ice fishing. MCL 324.82118(6); MSA 13A.82118(6). However, the snowmobile used solely for ice fishing must have a certificate of registration.

## 5.11 Equipment Requirements

The equipment required for snowmobile operation is as follows:

- All snowmobiles must have a braking system capable, “while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more, of stopping the snowmobile in not more than 40 feet from an initial steady speed of 20 miles per hour or of locking the snowmobile’s traction belt or belts.” MCL 324.82122(1); MSA 13A.82122(1).
- All snowmobiles must display a lighted headlight and lighted taillight at all times during operation. MCL 324.82131; MSA 13A.82131. This requirement does not apply to snowmobiles 25 years old or older. *Id.*
- All snowmobiles manufactured after July 1, 1977 shall be equipped with a muffler in good working order from which noise emission at 50 feet does not exceed 78 decibels as measured under the 1974 society of automobile engineers code J-192a. MCL 324.82126(1)(d); MSA 13A.82126(1)(d).
- All persons operating or riding on a snowmobile must wear a department of transportation approved crash helmet. MCL 324.82123; MSA 13A.82123. This crash helmet requirement does not apply to a person operating a snowmobile on his or her own private property. *Id.*

A violation of any of these requirements is a misdemeanor. *See* MCL 324.82133; MSA 13A.82133.

## 5.12 Operation of Snowmobiles on Public Highways and Streets

MCL 324.82119; MSA 13A.82119, states that a person shall not operate a snowmobile upon a public highway,<sup>\*</sup> upon land used as an airport or street, or on a public or private parking lot not designated for snowmobile use, except under the following conditions and circumstances:

<sup>\*</sup>See section 5.2 for definitions of highway, right-of-way, roadway, and shoulder.

“(a) A snowmobile may be operated on the right-of-way of a public highway, except a limited access highway, if it is

operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. However, a snowmobile may be operated on the right-of-way of a public highway against the flow of traffic if the right-of-way is a snowmobile trail designated by the department in the plan developed pursuant to section 82106(2) and is approved by the state transportation department and the department. Snowmobiles operated on the right-of-way of a public highway, as provided in this subdivision, shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall be limited to the speed limit posted on the public highway.”

“(b) A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to an approaching vehicle on the highway.”

...

“(d) A snowmobile may be operated across a public highway other than a limited access highway, at right angles to the highway, for the purpose of getting from one area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public highway and shall yield the right-of-way to all oncoming traffic.”

“(e) Snowmobiles may be operated on a highway in a county road system that is not normally snowplowed for vehicular traffic and on the plowed right-of-way or shoulder when no right-of-way exists on a snowplowed highway in the country road system, outside the corporate limits of a city or village, that is designated and marked for snowmobile use by the county road commission having jurisdiction. Upon the request of a county road commission that has designated all county roads outside the corporate limits of a city or village for snowmobile use, the state transportation department shall erect at county road commission expense and shall maintain, in accordance with the Michigan manual of uniform traffic control devices standards, the basic snowmobile sign unit together with a supplemental

panel stating “permitted on right-of-way or shoulder of all (county name) roads-Act 74 of P.A. 1968” at the county line on all state trunk line highways and county roads.”

“(f) A duly constituted law enforcement officer of a local unit of government or the state may authorize use of a snowmobile on a public highway or street within his or her jurisdiction when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.”

“(g) A snowmobile may be operated on a highway or street for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department.”

“(h) A city or village by ordinance may designate one or more specific public highways or streets within its jurisdiction as egress and ingress routes for the use of snowmobiles. A city or village acting under the authority of this subdivision shall erect and maintain, in accordance with the Michigan manual of uniform traffic control devices standards, a sign unit giving proper notice of the designation.”

A violation of any of these provisions is a misdemeanor. *See* MCL 324.82133; MSA 13A.82133.

### 5.13 Operation of Snowmobiles in Places Where Snowmobiles Are Prohibited

MCL 324.82126(1)(b) and (h); MSA 13A.82126(1)(b) and (h), includes two locations where a snowmobile may not be operated at any time:

“(b) In a forest nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area that is in zone 2 or zone 3.”\*

“(h) On or across a cemetery or burial ground.”

MCL 324.82126(1); MSA 13A.82126(1), also includes five locations where a snowmobile may be operated under special circumstances:

\*Zones 2 and 3 are the Lower Peninsula of Michigan. See MCL 324.82101(s) and (t); MSA 13A.82101(s) and (t).

“(c) On the frozen surface of public waters within 100 feet of a person, including a skater, not in or upon a snowmobile or within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to public water.”

“(e) Within 100 feet of a dwelling between 12 midnight and 6 a.m., at a speed greater than the minimum required to maintain a forward movement of the snowmobile.”

“(f) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency, for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, or for the conduct of necessary work functions involving land and timber survey, communications and transmission line patrol, and timber harvest operations, or on the person’s own property or property under the person’s control or as an invited guest.”

“(i) Within 100 feet of a slide, ski, or skating area except when traveling on a country road right-of-way pursuant to section 82119 or a snowmobile trail that is designated and funded by the department. A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies.”

“(j) On a railroad or railroad right-of-way. This prohibition shall not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties, and persons using a snowmobile trail located on or along a railroad right-of-way, or an at-grade snowmobile trail crossing of a railroad right-of-way, which as been expressly approved in writing by the owner of the right-of-way and each railroad company using the tracks and which meets the conditions imposed in subsections (2) and (3). A snowmobile trail or an at-grade snowmobile trail crossing shall not be constructed on a right-of-way designated by the federal government as a high-speed rail corridor.”

A violation of any of these provisions is a misdemeanor. *See* MCL 324.82133; MSA 13A.82133.

**DNR Note:** There is no prohibition in the Snowmobile Act against operating snowmobiles on the private property of other persons. However, such conduct would be in violation of MCL 324.73102; MSA 13A.73102 of the Recreational Trespass Act, which prohibits recreational activity on the property of another without written consent of the owner. A violation of section 73102 is a misdemeanor. *See* MCL 324.73110(1); MSA 13A.73110(1).

## 5.14 Operation of Snowmobiles By Children Less Than 17 Years of Age

All persons less than 17 years of age who operate a snowmobile must have a snowmobile safety certificate issued after the completion of a snowmobile safety education program. MCL 324.82108(6); MSA 13A.82108(6). A person who violates this provision is subject to a fine of not more than \$25. *Id.* The safety education program shall include both a performance test and a written test, and the fee charged for the program shall not be more than \$5. MCL 324.82108(2); MSA 13A.82108(2).

MCL 324.82120; MSA 13A.82120, establishes additional requirements for children less than 17 years of age. The following chart summarizes these requirements:

**Chart 5.14—Operation of Snowmobiles by Minors - Misdemeanors**

Persons Responsible	Prohibited Conduct	Statutory Reference
Parents or legal guardians of children less than 12 years of age.	“shall not permit his or her child who is less than 12 years of age to operate a snowmobile without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.”	MCL 324.82120(1); MSA 13A.82120(1).

**Chart 5.14—Operation of Snowmobiles by Minors - Misdemeanors**

<b>Persons Responsible</b>	<b>Prohibited Conduct</b>	<b>Statutory Reference</b>
Children at least 12 but less than 17 years of age.	May operate a snowmobile if one of the following conditions exist: “(a) The person is under the direct supervision of a person who is 21 years of age or older.”  “(b) The person has in his or her immediate possession a snowmobile safety certificate issued pursuant to a program conducted under section 82107.”  “(c) The person is on land owned or under the control of his or her parent or legal guardian.”  “(d) The person possesses a snowmobile safety certificate issued to the person under the authority of a law of another state or province of Canada.”	MCL 324.82120(2); MSA 13A.82120(2).
Children less than 12 years of age.	“shall not cross a highway or street.”	MCL 324.82120 (4); MSA 13A.82120(4).
Children at least 12 but less than 17 years of age.	“may cross a highway or street only if he or she has a valid snowmobile safety certificate in his or her immediate possession.”	MCL 324.82120 (4); MSA 13A.82120(4).

MCL 324.82120 (5) and (6); MSA 13A.82120 (5) and (6), also provides two additional requirements regarding the operation of snowmobiles by minors. They are:

“(5) The owner of a snowmobile shall not permit the snowmobile to be operated contrary to this section.”

“(6) When the judge of a juvenile court determines that a person who is less than 17 years of age has violated this part, the judge shall immediately report the determination to the department. The department upon receiving a notice of a determination pursuant to this



subsection may suspend the snowmobile safety certificate without a hearing.”

A person who violates any of these provisions is guilty of a misdemeanor. *See* MCL 324.82133; MSA 13A.82133.

## 5.15 Operation of Snowmobiles in a Careless, Unsafe, or Otherwise Prohibited Manner

### A. Misdemeanors

The following offenses deal with the manner in which a snowmobile is operated. A person who violates any of these offenses is guilty of a misdemeanor. *See* MCL 324.82133; MSA 13A.82133.

- A snowmobile shall not be used to hunt, pursue, worry, or kill a wild bird or animal. MCL 324.82121; MSA 13A.82121.
- A snowmobile shall not be operated at a rate of speed greater than is reasonable and proper. MCL 324.82126(1)(a); MSA 13A.82126(1)(a).
- A person shall not operate a snowmobile while transporting a bow, unless unstrung or encased. MCL 324.82126(1)(g); MSA 13A.82126(1)(g).
- A person shall not operate a snowmobile while transporting a firearm, unless unloaded in both barrel and magazine and securely encased. *Id.*

In 1998, the legislature enacted a new misdemeanor offense dealing with the reckless operation of snowmobiles. A person who violates this offense is guilty of a misdemeanor punishable by a fine of not more than \$250. MCL 324.82126b; MSA 13.82126b states as follows:

“(1) A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a public lake, stream, river, pond, or another public place, including, but not limited to, an area designated for the parking of snowmobiles or other motor vehicles, in willful or wanton disregard for the safety of persons or property.”

“(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$250.”

### B. State Civil Infractions for Careless Operation

In 1998, the legislature also adopted one of the few civil infractions in the Snowmobile Act. MCL 324.82126a; MSA 13A.82126a states as follows:

“(1) A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a lake, stream, river, pond, or another public place, including but not limited to an area designated for the parking of snowmobiles or other motor vehicles, in a careless or negligent manner likely to endanger any person or property.”

“(2) A person who violates subsection (1) is responsible for a state civil infraction.”

## 5.16 Operation of Snowmobiles to Cause Death or Serious Impairment

MCL 324.82126c; MSA 13A.82126c, is the third new snowmobile offense that was adopted by the legislature in 1998.\* It provides that a person who violates this statute is guilty of a misdemeanor punishable by up to 2 years in prison and/or a fine of not more than \$2,000. MCL 324.82126c; MSA 13A.82126c, states as follows:

“(1) A person who operates a snowmobile in a careless or negligent manner causing the death or serious impairment of bodily function of another is guilty of a misdemeanor and shall be imprisoned for not more than 2 years or fined not more than \$2,000, or both.”

“(2) A person who, by the operation of a snowmobile in a careless and heedless manner in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, causes the serious impairment of bodily function, but does not cause death of another, is guilty of the offense of felonious operation, and shall be imprisoned for not more than 2 years or fined not more than \$2,000, or both.”

“(3) As used in this section, “serious impairment of bodily function” includes, but is not limited to, 1 or more of the following:

- (a) Loss of limb or use of limb.
- (b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- (c) Loss of an eye or ear or use of an eye or ear.

\* See Section 5.15, *supra* for summaries of the other two offenses, MCL 324.82126a and .82126b; MSA 13A.82126a and .82126b.

- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain damage or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.”

“(4) Upon a person’s conviction of a violation under this section, the court may issue an order prohibiting the person from operating a snowmobile in this state for a period of 2 or more years in the discretion of the court. An order issued under this section is in addition to any other penalty authorized under this part.”

## 5.17 Failure to Stop for Peace Officers

The Snowmobile Act has two statutory sections which provide that it shall be a misdemeanor to fail to stop for a peace officer. These two sections are as follows:

- “An operator of a snowmobile who is given by hand, voice, emergency light, or siren a visual or audible signal by a peace, police, or conservation officer acting in the lawful performance of his or her duty, directing the operator to bring his or her snowmobile to a stop, and who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights, or who otherwise attempts to flee or elude the officer, is guilty of a misdemeanor. The officer giving the signal shall be in uniform. A vehicle or snowmobile which is used by an officer at night for purposes of enforcing this part shall be identified as an official law enforcement vehicle or snowmobile.” MCL 324.82135; MSA 13A.82135.
- “A person who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights, or who otherwise attempts to flee or elude the officer, is guilty of a misdemeanor.” MCL 324.82158(2); MSA 13A.82158(2).

In addition to failing to stop, it is unlawful to give false identification after being stopped. See MCL 324.82158(3); MSA 13A.82158(3), which states as follows:

“A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who finishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.”

## 5.18 Failure to Report Accidents

The operator of a snowmobile involved in an accident resulting in property damage of \$100 or more, or in injury or death, must immediately notify a law enforcement agency within the county in which the accident occurred. MCL 324.82132; MSA 13A.82132.

A person who fails to make such a report is guilty of a misdemeanor. *See* MCL 324.82133; MSA 13A.82133.

## 5.19 Operation of Snowmobiles While Intoxicated or Impaired

### A. Operating a Snowmobile While Intoxicated

MCL 324.82127(1) and (2); MSA 13A.82127(1) and (2), state as follows:

“(1) A person shall not operate a snowmobile in this state if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or both.”

(b) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”\*

“(2) The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

Persons convicted of operating a snowmobile while intoxicated shall be punished as follows:

\*This is commonly referred to as a “per se” violation, or operating with an unlawful blood alcohol level (UBAL).

- MCL 324.82128(1)(a)(i) to (iii); MSA 13A.82128(1)(a)(i) to (iii) states that first offenders may be punished by one or more of the following:
  - (i) Up to 45 days of community service;
  - (ii) Up to 90 days in jail;\*
  - (iii) A fine of between \$100 and \$500.
- MCL 324.82128(1)(b)(i) and (ii); MSA 13A.82128(1)(b)(i) and (ii) states that second offenders (within 7 years) shall be fined not less than \$200 or more than \$1,000 and either of the following:
  - (i) Community service for not less than 10 days or more than 90 days, or up to one year in jail.
  - (ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and up to 90 days of community service. If a term of imprisonment is imposed under this subsection, that term may not be suspended. MCL 324.82128(2); MSA 13A.82128(2).
- MCL 324.82128(i)(c); MSA 13A.82128(i)(c) states that third or subsequent offenders (within 10 years) are guilty of a felony and shall be sentenced to prison for not less than 1 year or more than 5 years, or a fine of not less than \$500 or more than \$5,000, or both.
- MCL 324.82128(5); MSA 13A.82128(5) states that persons convicted of violating section 82127(2) shall be guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not less than \$100 or more than \$500.
- MCL 324.82128(6); MSA 13A.82128(6), provides that “prior conviction” (as used in this section) means a violation of section 82127(1), (4), or (5), a violation of a local ordinance substantially corresponding to section 82127(1), or a violation of a law of another state substantially corresponding to section 82127(1), (4), or (5).\*

\*Beginning on October 1, 2000, this maximum term of imprisonment will be increased to 93 days. See 1999 PA22.

\*See Section 5.19 (C) and (D), *infra* for a summary of sections 82127(4) and (5).

**DNR Note:** Beginning on October 1, 2000, the operator of a snowmobile who is convicted of operating the snowmobile while under the influence of alcohol and/or a controlled substance, or who is convicted of operating with an unlawful blood alcohol level will have 6 points assessed against his or her driver's license. *See* 1999 PA 21, amending MCL 257.320a(1)(b); MSA 9.2020(1)(1)(b), effective October 1, 2000. Further, effective on October 1, 2000 each municipal judge and each clerk of a court of record shall submit an abstract of each case involving a violation of section .82127(1) to the Secretary or State. MCL 324.82141(3); MSA 13A.82141(3).

## B. Operating a Snowmobile While Visibly Impaired

MCL 324.82127(3); MSA 13A.82127(3), states that “a person shall not operate a snowmobile when, due to the consumption of an intoxicating liquor or a

controlled substance, or both, the person's ability to operate the snowmobile is visibly impaired."

Persons convicted of operating a snowmobile while visibly impaired shall be punished as follows:

- MCL 324.82129(1)(a)(i) to (iii); MSA 13A.82129(1)(a)(i) to (iii) states that first offenders may be punished by 1 or more of the following:
  - (i)Up to 45 days of community service.
  - (ii)Up to 90 days in jail.\*
  - (iii)A fine of not more than \$300.
- MCL 324.82129(1)(b)(i) and (ii); MSA 13A.82129(1)(b)(i) and (ii) states that second offenders (within 7 years) shall be fined not less than \$200 or more than \$1,000, and either of the following:
  - (i)Community service for not less than 10 days or more than 90 days, and up to 1 year in jail.
  - (ii)Up to 1 year in jail and community service for not more than 90 days.
- MCL 324.82129(1)(c)(i) and (ii); MSA 13A.82129(1)(c)(i) and (ii) states that third or subsequent offenders (within 10 years) shall be fined not less than \$200 or more than \$1,000 and either of the following:
  - (i)Community service for not less than 10 days or more than 90 days, and up to 1 year in jail.
  - (ii)Up to 1 year in jail and community service for not more than 90 days.
- MCL 324.82129(4); MSA 13A.82129(4), provides that "prior conviction" (as used in this section) means a violation of section 82127(1), (3), (4), or (5), a violation of a local ordinance substantially corresponding to section 82127 (1) or (3), or a violation of a law of another state substantially corresponding to Section 82127(1), (3), (4), or (5).\*

\*Beginning on October 1, 2000, this maximum term of imprisonment will be increased to 93 days. See 1999 PA 22.

\*See Section 5.19 (C) and (D), *infra* for a summary of sections 82127(4) and (5).

**DNR Note:** Beginning on October 1, 2000, the operator of a snowmobile who is convicted of operating the snowmobile while visibly impaired by the use of alcohol and/or a controlled substance will have 4 points assessed against his or her driver's license. *See* 1999 PA 21, amending MCL 257.320a(1)(f); MSA 9.2020(1)(1)(f), effective October 1, 2000. Further, effective on October 1, 2000 each municipal judge and each clerk of a court of record shall submit an abstract of each case involving a violation of section .82127(3) to the Secretary or State. MCL 324.82141(3); MSA 13A.82141(3).

### C. Operating a Snowmobile While Intoxicated and Causing Death

MCL 324.82127 (4); MSA 13A.82127 (4), states as follows:

“(4) A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that snowmobile causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years, or a fine of not less than \$2,500 or more than \$10,000, or both.”

### D. Operating a Snowmobile While Intoxicated and Causing Long-Term Incapacitating Injury

MCL 324.82127(5); MSA 13A.82127(5), states as follows:

“(5) A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that snowmobile causes a long-term incapacitating injury to another person is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000 or more than \$5,000, or both.”

MCL 324.82101(g); MSA 13A.82101(g), states that “long-term incapacitating injury means an injury that causes a person to be in a comatose, quadriplegic state, which is likely to continue for 1 year or more.”

### E. Court Ordered Suspensions of Operating Privileges

MCL 324.82142; MSA 13A.82142, provides that immediately upon conviction for a violation of section 82127 (1), (3), (4), or (5), the court shall order that defendant not operate a snowmobile. The following chart summarizes the lengths of times for these mandatory suspensions:

**Chart 5.19 (E)—Court Ordered Suspensions of Operating Privileges**

Name of Offense	Length of Time of Suspension Order	Statutory Reference
Operating while intoxicated—first offense	Not less than 6 months or more than 2 years.	MCL 324.82142(1)(b)(i); MSA 13A.82142(1)(b)(i)
Operating while intoxicated—second or subsequent offense	Order shall be without an expiration date.	MCL 324.82142(1)(b)(ii); MSA 13A.82142(1)(b)(ii)

**Chart 5.19 (E)—Court Ordered Suspensions of Operating Privileges**

<b>Name of Offense</b>	<b>Length of Time of Suspension Order</b>	<b>Statutory Reference</b>
Operating while visibly impaired—first offense	Not less than 90 days or more than one year	MCL 324.82142(1)(c)(i); MSA 13A.82142(1)(c)(i)
Operating while visibly impaired—second offense	Not less than 6 months or more than 2 years	MCL 324.82142(1)(c)(ii); MSA 13A.82142(1)(c)(ii)
Operating while visibly impaired—third or subsequent offense	Order shall be without an expiration date.	MCL 324.82142(1)(c)(iii); MSA 13A.82142(1)(c)(iii)
Operating while intoxicated and causing death or long-term incapacitating injury.	Order shall be without an expiration date.	MCL 324.82142(1)(a); MSA 13A.82142(1)(a).

#### **F. Suspensions of Operating Privileges By the Secretary of State**

MCL 324.82147 and .82148; MSA 13A.82147 and .82148, are the statutory sections that deal with orders to not operate snowmobiles issued by the Secretary of State. The orders described in these sections are to be issued notwithstanding any orders issued by the courts under section 82142.\*

MCL 324.82148(2); MSA 13A.82148(2), provides that if an order is issued without an expiration date, the Secretary of State shall not terminate the order until at least one year has passed; and if there is a second order issued within 7 years of the first order, the Secretary of State shall not terminate the second order until at least 5 years have passed.

#### **G. Implied Consent Provisions of the Snowmobile Act**

MCL 324.82143; MSA 13A.82143, states as follows:

“(1) A person who operates a snowmobile is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his or her blood in all of the following circumstances:

(a) The person is arrested for a violation of section 82127(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 82127(1) or (3).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a snowmobile, and the peace officer had

\*See section 5.19(E), *supra*.



reasonable grounds to believe that the person was operating the snowmobile while impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or while having a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

If a person refuses to submit to a chemical test, the Secretary of State shall order that person to not operate a snowmobile for 6 months. If that person has a second or subsequent refusal within 7 years, the order shall be for one year. MCL 324.82146; MSA 13A.82146.

#### **H. Misdemeanor Offense for Refusing to Submit to a Preliminary Chemical Breath Analysis Test**

MCL 324.82136(2)(d); MSA 13A.82136(2)(d), provides that a person who refuses to submit to a preliminary chemical breath analysis test (PBT) upon a lawful request by a peace officer is guilty of a misdemeanor.

The results of a PBT shall be admissible as evidence solely to assist the court in determining a challenge to the validity of the arrest. MCL 324.82136(2)(b); MSA 13A.82136(2)(b).

### **5.20 Operation of Snowmobiles After Operating Privileges Have Been Suspended**

MCL 324.82152(1); MSA 13A.82152(1), provides that a person who operates a snowmobile in violation of an order from the court or Secretary of State shall be guilty of a misdemeanor punishable by up to 90 days imprisonment and/or a fine of not more than \$500. For a second or subsequent violation, the penalty shall be up to 1 year imprisonment and/or a fine of not more than \$1,000.

MCL 324.82153; MSA 13A.82153, provides that if a person is convicted under section 82152(1), his or her snowmobile must be ordered impounded for not less than 30 days or more than 120 days from the date of judgement.

Beginning on October 1, 2000, if a person’s driver’s license or chauffeur’s license is suspended under the Michigan Vehicle Code or under the vehicle code of his or her home state, that person also may not operate a snowmobile during the term of that suspension. *See* MCL 324.82147a; MSA 13A.82147a, effective October 1, 2000.

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## **Michigan Snowmobile Regulations (continued)**

## Michigan Snowmobile Regulations (continued)

## **Michigan Snowmobile Regulations (continued)**

